

UNITED STATES DISTRICT COURT

for the

Martin James Tirrell
Petitioner

v.

FPC-Duluth Warden B. Eischen
Respondent

(name of warden or authorized person having custody of petitioner)

Case No. 22-cv-1421 NEB/JFD
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Martin James Tirrell
(b) Other names you have used: N/A
2. Place of confinement:
(a) Name of institution: Federal Prison Camp Duluth
(b) Address: P.O. Box 1000
Duluth, MN, 55814
(c) Your identification number: 19011-030
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: Southern District Iowa
(b) Docket number of criminal case: 4:19-CR-00005-001
(c) Date of sentencing: 01-20-2021
☐ Being held on an immigration charge
☐ Other (explain):

RECEIVED BY MAIL
MAY 25 2022
CLERK, U.S. DISTRICT COURT
MINNEAPOLIS, MINNESOTA

SCANNED
MAY 25 2022
U.S. DISTRICT COURT MPLS

Decision or Action You Are Challenging

5. What are you challenging in this petition:

☒ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

☐ Pretrial detention

☐ Immigration detention

☐ Detainer

☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)

☐ Disciplinary proceedings

☒ Other (explain): Earned First Step Act credits not being applied

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: Bureau Of Prisons

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

The BOP's inaction of not implementing or crediting earned credits

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: Bureau Of Prisons

(2) Date of filing: April 26, 2022

(3) Docket number, case number, or opinion number: _____

(4) Result: Earned credits were not applied to percent of statutory term

(5) Date of result: 05-04-2022

(6) Issues raised: Credits not being calculated or applied. This matter, based on federal law, is not required to administratively challenged within the the BOP however, I wanted to first give the BOP a chance to correct before going into court. They did not correct or change anything.

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☒ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: BOP Admin.

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: No change

(5) Date of result: _____

(6) Issues raised: Earned First Step Act credits not being applied. Repeatedly met with staff councilor and case managers only to be told: "There is nothing I can do. This is all in the hands of region."

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☒ No

N/A - Not Administrative

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes ☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____
(b) Date of the removal or reinstatement order: _____
(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☐ No

If "Yes," provide:

- (1) Date of filing: _____
(2) Case number: _____
(3) Result: _____
(4) Date of result: _____
(5) Issues raised: _____

- (d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☒ No

If "Yes," provide:

- (1) Name of court: _____
(2) Date of filing: _____
(3) Case number: _____

- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
- _____
- _____
- _____
- _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☒ No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____
- _____
- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____
- _____
- _____
- _____
- _____
- _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: The Bureau Of Prisons is not "implementing or applying" earned
First Step Act credits and this is causing my term of incarceration to be longer
than required.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

The "First Step Act of 2018" became law Dec. 21, 2018. This new federal law gave the BOP until Jan. 15, 2022 to "implement and credit" credits earned by inmates for productive activities. These credits were designed to allow inmates to shorten their incarceration by the number of days earned. The BOP is now violating federal law by (1) not giving credits and (2) not applying those credits to ones percent of term served.

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

GROUND TWO: By the BOP not implementing and applying First Step Act credits it is causing my incarceration to be longer than necessary.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

By delaying the credits I have earned, and not applying them to my percent of term satisfied, I am required to stay incarcerated longer with it then taking longer for me to reach "percentage mile stones" in order to qualify for relief at 50% (CARES ACT) or 2/3rds (Second Chance Act)

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes

☐ No

GROUND THREE: The Bureau Of Prisons is not applying my full Good Credit Time of 15% (54 days per year) imposed at sentencing. To date the BOP has credited only 54 of my total 184 Good Credit Time earned.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

The Department of Justice Computation Data shows the BOP recognizes I have: "Total GCT Earned : 184" days yet they have only credited 54 days to my current percent of statutory term served.

(b) Did you present Ground Three in all appeals that were available to you?

☒ Yes

☐ No

GROUND FOUR: The BOP is violating federal law by not applying full Good credit Time (GCT) and all earned First Step Act (FSA) credits.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

BOP / DOJ computation data confirm the BOP's actions and inactions. Staff say there is "nothing they can do about it" as "region" is responsible.

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Require the BOP to implement and credit all credits earned and imposed (FSA & GCT) and for those credits to be applied to my percent of statutory term served immediately.

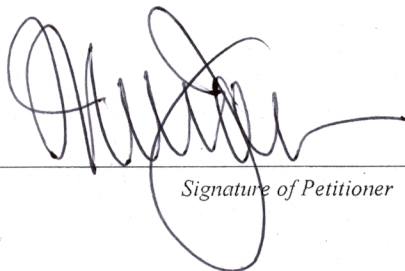
Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

May 21, 2022

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: May 21, 2022



Signature of Petitioner

N/A - Pro Se

Signature of Attorney or other authorized person, if any